

RULES
OF
DEPARTMENT OF COMMUNITY AFFAIRS
110-24 OPPORTUNITY ZONE JOB TAX CREDIT PROGRAM
CHAPTER 110-24-1
OPPORTUNITY ZONE JOB TAX CREDIT PROGRAM REGULATIONS
TABLE OF CONTENTS

110-24-1-.01 Program Description
110-24-1-.02 Criteria for Designation
110-24-1-.03 Application for Designation
110-24-1-.04 Policies, Procedures, and Limitations
110-24-1-.05 Opportunity Zone Tax Credit

110-24-1-.01 Program Description

(1) As described within the State’s Job Tax Credit Program at O.C.G.A. § 48-7-40.1(c)(4), a provision exists which is to be generally referred to herein as the “Opportunity Zone Job Tax Credit Program”.

(2) For areas that are in need of redevelopment and revitalization, the Opportunity Zone Job Tax Credit Program authorizes the commissioner of community affairs to designate as a “less developed area” an area that is contained within the boundaries outlined in O.C.G.A. § 48-7-40.1(c)(4) and designated under rule 110-24-1-.02.

(3) Within areas designated as a “less developed area” (also known as an Opportunity Zone) under this Chapter, the state will allow enhanced Job Tax Credits which include the following benefits: a \$3,500 Job Tax Credit (the maximum allowed under law), the use of Job Tax Credits against 100 percent of income tax liability and withholding, the use of the credit by all lawful businesses of any nature, and lowering the job creation threshold to two jobs.

110-24-1-.02 Criteria for Designation

(1) Boundaries of an Opportunity Zone must be wholly contained within or adjacent to an area of one or more contiguous U.S. Census block groups with a poverty rate of 15 percent or greater as determined from data in the most current United States decennial census.

(2) Boundaries of an Opportunity Zone must also be wholly contained within either the boundaries of a state enterprise zone designated pursuant to Chapter 88 of Title 36 of the Georgia Code or within the boundaries of a redevelopment area that has been adopted pursuant to Chapter 61 of Title 36 of the Georgia Code or may include all or part of both an enterprise zone and a redevelopment area.

(3) The area requested for designation must also, in the opinion of the commissioner of community affairs, display pervasive poverty, underdevelopment, general distress, and blight. Such designation shall not include areas deemed to be environmentally sensitive or unfit for development.

110-24-1-.03 Application for Designation

(1) Cover Letter

(a) A cover letter to the commissioner of community affairs requesting designation must be prepared and signed by an authorized representative of the county or city applying for an Opportunity Zone. In the case of a jointly designated enterprise zone that includes both city and county incentives, a cover letter must be executed by an authorized representative of each applicable local government.

(2) Ordinances, Plans, and Policies

(a) Applicants must submit to the commissioner of community affairs documentation of enterprise zones and/or urban redevelopment areas overlapping any portion of the proposed Opportunity Zone, specifically: 1. a certified copy of all applicable enterprise zone ordinances, resolutions, and amendments; and 2. all of local government's resolutions establishing urban redevelopment area(s), including urban redevelopment plan(s), with amendments and related resolutions.

(b) A certification from the local government's attorney that the enterprise zone ordinances, resolutions and policies and/or the authorizing resolutions for the urban redevelopment plan were adopted in accordance with applicable law and applicable public hearing requirements must be submitted to the commissioner of community affairs. In the case of a zone or redevelopment plan that includes multiple local governments, the local government attorney in each jurisdiction must execute a certification.

(3) Pervasive Poverty, Underdevelopment, General Distress, and Blight Criterion

(a) Documentation submitted with the request for designation may include but is not limited to the following:

1. Surveys indicating the number and percentage of blighted commercial buildings
2. Photographic documentation
3. Building permit trend information
4. Selling trends indicating development/underdevelopment
5. Newspaper documentation

(4) Maps -- A map must be submitted with the Opportunity Zone designation request that meets the specifications outlined within this regulation.

(a) Map specifications -- Submissions shall contain three copies of a map of the Opportunity Zone. Such map shall be prepared in accordance with the following minimum standards and specifications:

1. Material.

- (i) The maps or plats submitted to the Department shall be a good legible copy, such as a blue, white, or other commercial print reproduced from an original; and

(ii) The map shall be compiled at a scale of no less than one inch equals five hundred feet (1 inch = 500 feet);

2. Content.

(i) The map's extent shall clearly demonstrate the location of the area in relation to surrounding areas and;

(ii) The map shall display and identify any local government boundaries within the map extent. Such boundaries shall be uniquely symbolized (i.e. type and thickness) and all jurisdictions shall be identified;

(iii) The map shall display and identify the census block groups within the map extent. Such boundaries shall be uniquely symbolized (i.e. type and thickness);

(iv) The map shall display and identify all State Enterprise Zone and/or Urban Redevelopment Area boundaries within the map extent. Such boundaries shall be uniquely symbolized (i.e. type and thickness);

(v) The map shall display and identify the proposed boundaries of the Opportunity Zone within the map extent. Such boundaries shall be uniquely symbolized (i.e. type and thickness);

(vi) The map shall identify individual parcels within the proposed Opportunity Zone boundaries;

(vii) The map shall display the coordinates of four or more map registration points along the boundary of the property. Such coordinates shall be expressed in latitude/longitude (degrees-minutes-seconds or decimal degrees). The horizontal map accuracy of each map registration point shall not be more than plus or minus five foot (+/- 5.0'). The map registration points should be evenly spaced (imprecisely) along the boundary of the Opportunity Zone. The demarcation of the points shall be a tick mark (crosshairs).

3. Caption. The map shall have a title or name which shall be contained in the caption, and the caption shall also provide the minimum following information:

(i) The county or municipal corporation, land district and land lot;

(ii) The date of map preparation;

(iii) The scale, stated and shown graphically;

(iv) The name, address, and phone number of the zone's administrator; and

(v) The name, address, and telephone number of the preparer.

(5) Other information may be required at the discretion of the commissioner of community affairs.

110-24-1-.04 Policies, Procedures, and Limitations

(1) Applications for Opportunity Zones may be submitted at any time.

(2) A local government may have any number of Opportunity Zones unless otherwise limited by law or these regulations.

(3) A business may qualify for the Opportunity Zone credit without qualifying for benefits under a State Enterprise Zone or Urban Redevelopment Plan.

(4) State Enterprise Zones cited for the purpose of application to the commissioner of community affairs for the creation of an Opportunity Zone must be active, bona fide State Enterprise Zones that are currently offering incentives to enterprise zone businesses.

(5) Opportunity Zones will exist for a period of 10 years or for the life of the related State Enterprise Zones and Urban Redevelopment Plans, whichever is shorter. Opportunity Zones may be renewed by the commissioner of community affairs at the end of 10 years. The Opportunity Zones may be revoked for any of the following reasons:

(a) No local incentives have been offered to businesses within the applicable Opportunity Zone through the State Enterprise Zone law for a period of five years.

(b) No demonstrated progress toward Urban Redevelopment Plan goals for a period of five years.

(c) Other indications of inactivity in either the applicable State Enterprise Zones or Urban Redevelopment Plans.

110-24-1-.05 Opportunity Zone Tax Credit

(1) For eligible businesses within a currently designated Opportunity Zone, tax credits may be earned in accordance with O.C.G.A. § 48-7-40.1 and the accompanying regulations. Nothing in this regulation shall be construed as authorization for businesses to claim multiple job tax credits for the same jobs. By way of further explanation, no business may add credits for the same jobs by qualifying simultaneously under the various provisions of O.C.G.A. §§ 48-7-40 and 48-7-40.1. Thus businesses may only claim the credit for jobs created under either the county tier program or the Opportunity Zone program, but not both programs.

(2) All applicable laws and regulations of the Job Tax Credit Program (see O.C.G.A. § 48-7-40.1 and Chapter 110-9-1) must be met before a business may earn Opportunity Zone credits.

(3) Before claiming Opportunity Zone tax credits, a business must apply for a certification that the business location where jobs are being created is within a currently designated Opportunity Zone.

(a) The business' application must contain the business' address and parcel number. If requested, the business will supply geographic coordinates to assist in verifying the location within an Opportunity Zone.

(b) The business must file the certification with the local jurisdiction's contact person for the Opportunity Zone. The local jurisdiction must then certify that the business location is within the Opportunity Zone and forward the certification on to the department of community affairs for acknowledgement.

(c) Once certified and acknowledged, a copy will be provided back to the business, the local jurisdiction and the department of revenue.

(4) These regulations shall be applicable to all taxable years beginning on or after January 1, 2008 unless otherwise required by law. Businesses may earn Opportunity Zone tax credits

beginning with tax years on or after January 1st of the year in which a completed application for an Opportunity Zone has been submitted by the applicable local government to the department of community affairs, provided the application for designation is approved by the department of community affairs and provided the business has received a valid certification that the business location is within the designated Opportunity Zone.

(5) Procedures to Ensure Business Enterprises Can Claim Credits in Future Years. For business enterprises that plan a significant expansion in their labor forces, the following procedures ensure that they can claim credits in future years without regard to whether or not a particular Opportunity Zone is still in existence: Business enterprises that plan a significant expansion in their labor forces in a currently designated Opportunity Zone may file a notice of intent with the commissioner of community affairs stating the Opportunity Zone in which the business enterprise is planning to locate or expand, the number of new jobs planned, and the dates for the planned expansion. The notice of intent may only be filed for locations or expansions that are planned within three (3) years of the date of the notice of intent, except when evidence satisfactory to the commissioner of community affairs is submitted that demonstrates a high probability that significant job creation will result within the time frame submitted in the notice of intent. The notice of intent, once received and accepted by the commissioner of community affairs, will allow the business job tax credits at the time of acceptance of the notice of intent if the planned location or expansion takes place within the time frame submitted in the notice of intent and if all other program requirements are satisfied as specified in these regulations and in the Official Code of Georgia Annotated Sections 48-7-40.1, 36-61 and 36-88. No credit for new jobs may be generated outside the time frame of a notice of intent unless otherwise provided for in these regulations. Credit for maintained jobs may still be taken even after a notice of intent has lapsed.

(a) Notices of intent may be updated or amended by any business enterprise not more often than once a year unless necessitated by the expiration, amendment, or revocation of an Opportunity Zone.

(b) Notices of intent may only be submitted to the commissioner of community affairs during periods in which the zones are active or by the deadline specified herein.

(c) The notice of intent procedures described in these regulations are intended to protect companies, for the limited period of three years under the following circumstances: the expiration of an Opportunity Zone, a change in the boundary of an Opportunity Zone, or the revocation of an Opportunity Zone. These procedures, however, do not protect companies from changes in law unless otherwise specified in law. Protection provided by notices of intent include the following potential changes in benefits: changes in credit amount, changes in job threshold, changes in above average wage requirements, changes in limitations in the amount of tax liability that may be offset, changes in ability to apply credits against payroll withholding, and changes in the types of businesses eligible for the credit.

(d) The commissioner of community affairs will receive notices of intent that are postmarked within three months of the expiration of the Opportunity Zone in which the business intends to create jobs that qualify for Opportunity Zone credits. Properly filed and accepted notices of intent will apply to the three years beginning with the year after the expiration of the Opportunity Zone. For example, if the Opportunity Zone expires on December 31, 2010, then the Notice of Intent must be filed no later than March 31, 2011, and will apply to years 2011

through 2013. The commissioner of community affairs is not obligated to accept notices of intent unless they are properly prepared and meet the requirements of law and regulation.

(Authority O.C.G.A. § 48-7-40.1)